**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**CRIMINAL REVISION APPLICATION No. 700 of 1998**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**RAMESHCHANDRA MAGANLAL RAO - Applicant(s)**

**Versus**

**STATE OF GUJARAT & 1 - Respondent(s)**

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**Appearance :**
MR PRAKASH K JANI for Applicant(s) : 1,
MS HB PUNANI, ADDITIONAL PUBLIC PROSECUTOR for Respondent(s) : 1,
MR NAVIN K PAHWA for Respondent(s) : 2,

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**CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

**Date : 10/04/2006**

**ORAL JUDGMENT**

1. The present application was filed on 11.12.1998 challenging the order passed by the learned Sessions Judge, Mahesana dated 11.05.1998 below Exh.7 in Criminal Revision Application No.161 of 1997.

2. The matter was moved for orders on 12.04.1999 for

the first time and on that day, the learned advocate appearing for opponent No.2 sought time and the matter was adjourned to 21.04.1999. On 21.04.1999, it was adjourned to 29.04.1999 and on 29.04.1999, it was adjourned to 18.06.1999. On 29.06.1999, this Court (Coram: A.L.Dave, J.) passed the following order:

> "Rule. Interim relief in terms of para-11(B). The matter to be fixed for final hearing in 1st week of August 1999."

Thereafter, the matter was though listed on various dates, it was not heard. Today, it is before this Court for final hearing.

3. Mr.N.K.Pahwa, learned advocate appearing for respondent No.2 points out that after the order under challenge dated 11.05.1998 was passed , the matter came up for consideration before the learned Magistrate. On 31.08.1998, the learned Magistrate has issued summons in the matter. The learned advocate submits that in that view of the matter, this Criminal Revision Application has become infractuous as the order under challenge is already implemented.

4. When it is put to the learned advocate Mr.P.K.Jani, appearing for the applicant as to whether he was aware of

order dated 31.08.1998, the learned advocate answered in affirmative. When it is next put to him as to whether on 29.06.1999, when the order aforesaid of 'rule' and granting of interim relief was obtained, whether he pointed out the fact of issuance of summons in the matter, the learned advocate submitted that as that order was not challenged in this Revision Application, he did not think it necessary to point out the same to this Court.

5. Mr.Jani, learned advocate for the applicant requested that he may be granted some time to find out as to what is the progress made before the learned Magistrate after issuance of order dated 31.08.1998. It is a sorry state of affair that though the applicant was in know of the order passed by the learned Magistrate dated 31.08.1998, the applicant did not think it necessary to inform his advocate so as to enable him to point out the same to this Court at the time of passing of order dated 29.06.1999. Even thereafter, learned advocate for the applicant, through the applicant should have inquired about the progress of the matter. Today when it is put to the learned advocate for the petitioner, he pleads ignorance about the latest position of the matter.

6. The fact that the order under challenge dated 11.05.1998 is already implemented, may be in part, the Revision Application has become infractuous. It is dismissed accordingly. Rule is discharged.

At this stage, Mr.Jani, learned advocate for the applicant submitted that despite the impugned order having been implemented in part, the Revision Application does not become infractuous. The Court finds no substance in the submission of learned advocate Mr.Jani. Hence, the same is rejected.

(RAVI R.TRIPATHI, J.)

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